

enforced by the Corporation that provide, upon conviction, for punishment by fine or imprisonment is a matter finally determined by the Department of Justice. This final determination consists of deciding whether and under what conditions to prosecute or to abandon prosecution.

(b) The Corporation's Chief Counsel is hereby authorized to determine whether or not a violation of the Seaway Regulations carrying a criminal penalty is one that would justify referral of the case to the U.S. Attorney.

(c) The Corporation's Chief Counsel will identify the regulations that were violated and make specific recommendations concerning the proceedings to be instituted by the U.S. Attorney in every case.

(d) Referral of a case to the U.S. Attorney for prosecution terminates the Corporation's authority with respect to the criminal aspects of a violation.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended sec. 104, Pub. L. 92-340 86 Stat. 424 and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471, and 49 CFR 1.52)

[50 FR 10963, Mar. 19, 1985]

§ 401.205 Civil and criminal penalties.

(a) If the violation of the Seaway Regulations carries a criminal penalty, the Corporation's Chief Counsel is hereby authorized to determine whether to refer the case to the U.S. Attorney for prosecution in accordance with § 401.204, which outlines the appropriate procedure for handling criminal cases.

(b) The decision of the U.S. Attorney as to whether to institute criminal proceedings shall not bar the initiation of civil penalty proceedings by the Associate Administrator.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended sec. 104, Pub. L. 92-340 86 Stat. 424 and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471, and 49 CFR 1.52)

[50 FR 10963, Mar. 19, 1985, as amended at 51 FR 4341, Feb. 4, 1986]

§ 401.206 Procedure for payment of civil penalty for violation of the Seaway regulations.

(a) The payment must be by money order or certified check payable to the order of the Saint Lawrence Seaway Development Corporation and mailed

to the Comptroller. If the payment is made in person at the offices of the Saint Lawrence Seaway Development Corporation, the payment may be in cash or by postal money order or check payable to the order of the Saint Lawrence Seaway Development Corporation.

(b) The payment of any penalty will be acknowledged by written receipt.

(c) If the penalty paid is determined by the Associate Administrator to have been improperly or excessively imposed, the payor will be notified and requested to submit an application for a refund which should be mailed to the Saint Lawrence Seaway Development Corporation, attention of the Chief Engineer. Such application must be made by the payor within one year of the date of notification provided for in this section.

(d) In the event the alleged violator is about to leave the jurisdiction of the United States, he or she will be required, before being allowed to depart, to post a bond in the amount and manner suitable to the Associate Administrator, from which bond any subsequent assessed or mitigated penalty may be satisfied.

(68 Stat. 93-96, 33 U.S.C. 981-990, as amended sec. 104, Pub. L. 92-340 86 Stat. 424 and secs. 12 and 13 of sec. 2 of Pub. L. 95-474, 92 Stat. 1471, and 49 CFR 1.52)

[50 FR 10964, Mar. 19, 1985, as amended at 51 FR 4341, Feb. 4, 1986]

PART 402—TARIFF OF TOLLS

Sec.

402.1 Purpose.

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402.3 Interpretation.

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402.6 Description and weight of cargo.

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402.13 Vessels engaged primarily in the bulk trade.

402.15 Single season discounts or rebate for same shipment.

AUTHORITY: 68 Stat. 93, 33 U.S.C. 981-990.

SOURCE: 47 FR 13804, Apr. 1, 1982, unless otherwise noted.

§ 402.1 Purpose.

This regulation prescribes the charges to be assessed for the full or partial transit of the St. Lawrence Seaway between Montreal, Quebec and Lake Erie.

§ 402.2 Title.

This tariff may be cited as the St. Lawrence Seaway Tariff of Tolls.

§ 402.3 Interpretation.

In this tariff.

(a) *Authority* means The St. Lawrence Seaway Authority;

(b) *Bulk cargo* means such goods as are loose or in mass and generally must be shovelled, pumped, blown, scooped or forked in the handling and, shall be deemed to include:

(1) Cement, loose or in sacks;

(2) Coke and petroleum coke, loose or in sacks;

(3) Domestic cargo;

(4) Liquids carried in ships' tanks;

(5) Ores and minerals (crude, screened, sized or concentrated, but not otherwise processed) loose or in sacks, including alumina, bauxite, gravel, phosphate rock, sand, stone and sulphur, but excluding coal;

(6) Pig iron, scrap metals;

(7) Lumber, pulpwood, poles and logs, loose or bundled;

(8) Raw sugar, flour, loose or in sacks;

(9) Woodpulp, loose or in bales;

(10) Material for recycling, scrap material, refuse and waste;

(c) *Cargo* means all goods aboard a vessel whether carried as revenue or non-revenue freight, or carried for the vessel owner, *except*: empty containers and the tare weight of loaded containers, all such containers having a capacity of 18 cubic meters (635.665 cubic feet) or more; ships' fuel, ballast or stores, or crew or passenger's personal effects, and intransit cargo that is carried both upbound and downbound in the course of the same voyage which shall be reported in the Seaway Transit Declaration Form but is deemed to be ballast and not subject to toll assessment;

(d) *Containerized cargo* means any general cargo shipped in an enclosed, permanent, reusable, nondisposable, weathertight shipping conveyance hav-

ing a capacity of 18 cubic meters (635.665 cubic feet) or more and fitted with a minimum of one hinged door;

(e) *Corporation* means the Saint Lawrence Seaway Development Corporation;

(f) *Domestic cargo* means cargo, the shipment of which originates at one Canadian point and terminates at another Canadian point, or which originates at one United States point and terminates at another United States point, but shall not include any import or export cargo designated at the point of origin for transshipment by water at a point in Canada or in the United States;

(g) *Feed grains* means barley, corn, oats, flaxseed, rapeseed, soybeans, field crop seeds, grain screenings, and meal from these grains for animal consumption;

(h) *Food grains* means buckwheat, dried beans, dried peas, rye, and wheat;

(i) *General cargo* means all goods not included in the definitions under paragraphs (b), (g), (h), and (j) of this section, but excluding steel slab;

(j) *Government aid cargo* means processed food products which have been donated by or the purchase of which has been financed on concessional terms by the Federal Government of either the United States or Canada for the purposes of nutrition, economic development, emergency, or disaster relief programs and any food cargo that is owned or financed by a nonprofit organization or cooperative and that is certified by the Customs Service of the United States or Canada as intended for use in humanitarian or development assistance overseas.

(k) *Metric ton* means, unless otherwise stated, a metric unit of weight of 1,000 kilograms (2204.62 pounds);

(l) *Passenger* means any person being transported through the Seaway who has paid a fare for passage;

(m) *Pleasure craft* means a vessel, however propelled, that is used exclusively for pleasure and does not carry passengers;

(n) *St. Lawrence Seaway* includes all facilities and services authorized under the St. Lawrence Seaway Authority Act, Chapter 242, Revised Statutes of Canada, 1952, as amended, and under Pub. L. 358, 83rd Congress, May 13, 1954,

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enacted by the Congress of the United States, as amended, and including the Welland Canal, which facilities are under the control and administration or immediate financial responsibility of either the Authority or the Corporation;

(o) *Seaway* means the St. Lawrence Seaway;

(p) *Tolls* means the total assessment levied against a vessel, its cargo and passengers for complete or partial transit of the Seaway covering a single trip in one direction;

(q) *Vessel* means every type of craft used as a means of transportation on water, except a vessel of or employed by the Authority or the Corporation.

[47 FR 13804, Apr. 1, 1982, as amended at 54 FR 39175, Sept. 25, 1989; 56 FR 22119, May 14, 1991; 57 FR 2471, Jan. 22, 1992; 57 FR 30905, July 13, 1992; 59 FR 2986, Jan. 20, 1994; 59 FR 45228, Sept. 1, 1994]

§ 402.4 Tolls.

(a) The tolls shall be set forth in the schedule hereto.

(b) The tolls under this tariff are due from the representative of each vessel as soon as they are incurred and payment shall be made within thirty (30) days of the vessel's entry into the Seaway.

(c) The tolls for the section between Montreal and Lake Ontario shall be paid 75 percent in Canadian dollars and 25 percent in United States dollars. Payments for transit through locks in Canada only shall be in Canadian dollars, and payments for transit through locks in the United States only shall be in United States dollars.

(d) the tolls for transit of the Welland Canal shall be paid in Canadian dollars and shall accrue to the Authority.

[47 FR 13804, Apr. 1, 1982, as amended at 50 FR 21264, May 23, 1985; 54 FR 39175, Sept. 25, 1989]

§ 402.5 Security for payment.

A representative of each vessel shall provide the Authority or the Corporation with security, satisfactory to the Authority or the Corporation, for payment of tolls.

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§ 402.6 Description and weight of cargo.

(a) A cord of pulpwood shall be deemed to weigh 1,450 kilograms (3196.70 pounds).

(b)(1) 1,000 f.b.m. of sawn softwood lumber with less than 15% moisture content shall be deemed to weigh 770 kilograms (1697.56 pounds).

(2) 1,000 f.b.m. of sawn softwood lumber with 15% moisture content or over shall be deemed to weigh 950 kilograms (2094.39 pounds).

(3) 1,000 f.b.m. of sawn hardwood lumber with less than 15% moisture content shall be deemed to weigh 1,135 kilograms (2502.24 pounds).

(4) 1,000 f.b.m. of sawn hardwood lumber with 15 per cent moisture content or over shall be deemed to weigh 1,405 kilograms (3,097.49 pounds).

(c) The tonnage used in the assessment of tolls shall be calculated to the nearest 1,000 kilograms (2204.62 pounds).

[47 FR 13804, Apr. 1, 1982, as amended at 54 FR 39175, Sept. 25, 1989]

§ 402.7 Post-clearance date operational surcharges.

(a) If the Authority and the Corporation so determine, they may establish a clearance date for the transit of the Montreal-Lake Ontario section. Each vessel which does not comply with the conditions announced by the Authority and the Corporation in establishing the clearance date may be required to pay in dollars an amount not exceeding the operational surcharge set forth below:

(1) Vessels reporting during the 24 hour period immediately following the clearance date: 20,000.00

(2) Vessels reporting more than 24 hours late, but less than 48 hours after the clearance date: 40,000.00

(3) Vessels reporting more than 48 hours late, but less than 72 hours after the clearance date: 60,000.00

(4) Vessels reporting more than 72 hours late, but less than 96 hours after the clearance date: 80,000.00

(b) The operational surcharge assessed vessels already at a port, dock or wharf within the St. Lambert-Iroquois Lock segment of the Montreal-Lake Ontario section at the clearance date shall be \$20,000 less than the amount otherwise applicable.

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(c) Each vessel which reports more than 96 hours after the clearance date may transit only if a prior written agreement authorizing such transit has been entered into among the owner or agent of the vessel and the Authority and the Corporation. Such agreement may provide for additional operational surcharges.

(d) Assessed operational surcharges will be prorated on a per lock basis. Surcharges representing transit

through United States locks will be for the account of the Corporation and payable in United States funds and surcharges representing transit through Canadian locks will be for the account of the Authority and will be payable in Canadian funds.

[47 FR 13804, Apr. 1, 1982, as amended at 49 FR 46893, Nov. 29, 1984]

§ 402.8 Schedule of tolls.

	Tolls	
	Montreal to or from Lake Ontario (MLO) effective 1994	Lake Ontario to or from Lake Erie (Welland Canal) effective 1994
(a) For transit of the Seaway, a composite toll, comprising:		
(1) A charge in dollars per gross registered ton, according to national registry of the vessel, applicable whether the vessel is wholly or partially laden, or is in ballast. (All vessels shall have an option to calculate gross registered tonnage according to prescribed rules for measurement in either Canada or the United States.)	0.11	0.13
(2) a charge in dollars per metric tons of cargo as certified on ship's manifest or other document, as follows:		
Bulk Cargo	1.10	0.55
Food Grains	0.68	0.55
Feed Grains	0.68	0.55
Coal	0.65	0.55
General Cargo	2.66	0.88
Steel Slab	2.41	0.63
Containerized Cargo	1.10	0.55
Government Aid	0.00	0.00
(3) a charge in dollars per passenger per lock	1.18	1.18
(4) a charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo vessels, which may be shared by cargo vessels in tandem:		
(i) Loaded per: lock	N/A	440.00
(ii) In ballast: per lock	N/A	325.00
(b) For partial transit of the Seaway:		
(1) between Montreal and Lake Ontario, in either direction, 15 percent per lock, of the applicable toll.		
(2) between Lake Ontario and Lake Erie, in either direction, (Welland Canal), 13 percent per lock of the applicable toll.		
(c) Minimum charge in dollars per vessel per lock transited for full or partial transit of the Seaway:		
Pleasure craft ¹	10.00	10.00
Other vessels	15.00	15.00

¹ Includes Federal Taxes where applicable.

[59 FR 45229, Sept. 1, 1994]

§ 402.9 Incentive tolls.

(a) Notwithstanding anything contained in this Tariff, the portion of the composite toll related to charges per metric ton of cargo charged on new business shall be reduced by fifty percent for a Seaway transit beginning and ending during the 1995 navigation year.

(b) The discount mentioned in paragraph (a) of this section shall be grant-

ed for the remainder of the navigation season if:

(1) A vessel carries, for each transit, 1,000 metric tons or more of new business or a minimum of 1,000 cubic meters of new business project cargo; and

(2) A complete and accurate application for a new business discount is submitted to the Authority or the Corporation, on the form provided by the Authority or the Corporation, for evaluation and audit by the Authority or the Corporation prior to the beginning of a Seaway transit.

(c) For the purposes of this section, “new business” means cargo that has not moved through a Seaway lock between an origin and a destination as defined in this paragraph (c) during the navigation seasons of 1992, 1993, and 1994 or cargo that has moved through a Seaway lock in quantities representing less than five percent of the average of Seaway traffic between an origin and a destination during the navigation seasons of 1992, 1993, and 1994. For the purposes of this paragraph (c), *origin* and *destination* mean the country in which the cargo is loaded or unloaded, but if the cargo is unloaded in North America, *origin* and *destination* mean the geographic region in which the cargo is unloaded, those geographic regions being as follows:

- (1) the Gulf of St. Lawrence and St. Lambert Lock;
- (2) St. Lambert Lock to Cape Vincent on the St. Lawrence River, Lake Ontario and the Welland Canal;
- (3) Lake Erie, Lake Huron, and connecting waters;
- (4) Lake Michigan;
- (5) Lake Superior and St. Mary's River; and
- (6) ports elsewhere in North America in regions not specifically described in subparagraphs (c) (1) through (5) of this section.

[59 FR 45229, Sept. 1, 1994, as amended at 60 FR 56121, Nov. 7, 1995]

§ 402.11 Volume discount.

(a) A volume rebate shall be granted to a shipper of downbound cargo or to a receiver of upbound cargo at the end of the 1995 navigation season after payment of the full toll specified in the schedule under the tariff in § 402.8 of this part if shipments of a particular commodity during 1995 exceed by a minimum of 25,000 tons the shipper's or receiver's highest tonnage for that particular commodity during 1991, 1992, 1993, or 1994 in the Seaway. Shippers will be qualified based upon the particular commodity loaded at their port of origin and receivers will be qualified based on the particular commodity unloaded at their port of destination. Shippers and receivers located within the Seaway will be qualified based on the total of their upbound and downbound shipments or receipts of

the particular commodity. Should a shipper or receiver of the same commodity qualify for a volume rebate, the rebate will be divided equally between the shipper and receiver.

(b) Volume rebates shall be granted only with respect to commodities whose shipper and receiver have shipped or received the subject commodity in the years 1991, 1992, 1993, and 1994 and have not been subject of a merger or take-over during 1991, 1992, 1993, 1994, or 1995.

(c) The volume rebate shall be equal to a 50 percent reduction of the portion of the composite toll related to charges per metric ton of cargo paid for the shipments that surpass the shippers or receiver's highest tonnage for that commodity during 1991, 1992, 1993, or 1994. Payment of rebates will be made directly to the qualified receiver or shipper.

(d) A description of the shipper's or receiver's Seaway traffic history for 1991, 1992, 1993, 1994, and 1995 by port, vessel name, transit date, commodity description, and tonnage shall be submitted by the shipper or receiver prior to the end of 1995 and shall be subject to audit by the Authority.

(e) Cargoes having been the subject of a new business discount or an alternate use of bulker discount described in § 402.13 of this Part shall be excluded from the statistics used for calculation of volume rebates.

[59 FR 45229, Sept. 1, 1994, as amended at 60 FR 56121, Nov. 7, 1995]

§ 402.13 Vessels engaged primarily in the bulk trade.

Notwithstanding any thing contained in this Tariff, the toll for steel slab, general, or containerized cargo for any vessel documented under the laws of the United States or registered in Canada in accordance with the laws of Canada that has been engaged primarily in the bulk trade within the St. Lawrence Seaway/Great Lakes system during the three navigation seasons immediately preceding the applicable season shall, upon written application to the Authority or the Corporation prior to the beginning of a Seaway transit, be the toll charged for food grains specified in the

schedule under the Tariff in § 402.8 of this part.

[59 FR 45230, Sept. 1, 1994]

§ 402.15 Single season discounts or rebate for same shipment.

Notwithstanding anything in the Tariff, a carrier, shipper, or receiver shall obtain during a single navigation season, with respect to the same shipment, only one of the following three: a new business discount, as described in § 402.9; a bulk trade discount, as described in § 402.13; or a volume rebate, as described in § 402.11.

[59 FR 45230, Sept. 1, 1994]

PART 403—RULES OF PROCEDURE OF THE JOINT TOLLS REVIEW BOARD

Sec.

403.1 Purpose of the Joint Tolls Review Board. [Rule 1]

403.2 Scope of rules. [Rule 2]

403.3 Definitions. [Rule 3]

403.4 Applications. [Rule 4]

403.5 Meetings and functions of Board. [Rule 5]

403.6 Additional information. [Rule 6]

403.7 Action on applications; notices of requirements. [Rule 7]

403.8 Proceedings; stay or adjournment. [Rule 8]

403.9 Prehearings. [Rule 9]

403.10 Hearings; witnesses; affidavits. [Rule 10]

403.11 Findings and recommendations. [Rule 11]

AUTHORITY: 68 Stat. 92–96, 33 U.S.C. 981–990; Agreement between the Governments of United States and of Canada dated March 9, 1959, 10 U.S.T. 323, unless otherwise noted.

SOURCE: 24 FR 9307, Nov. 18, 1959; 24 FR 10445, Dec. 23, 1959, unless otherwise noted.

§ 403.1 Purpose of the Joint Tolls Review Board. [Rule 1]

The Board shall hear complaints relating to the interpretation of the St. Lawrence Seaway Tariff of Tolls or allegations of unjust discrimination arising out of the operation of the said Tariff and shall conduct such other business as agreed to by the Board (Rule 1).

[47 FR 13805, Apr. 1, 1982]

§ 403.2 Scope of rules. [Rule 2]

These rules govern practice and procedure before the Joint Tolls Review Board unless the Board directs or permits a departure therefrom in any proceeding [Rule 2].

(68 Stat. 92–97, 33 U.S.C. 981–990, as amended; Agreement between the Governments of the United States and Canada finalized on March 20, 1978)

[43 FR 30539, July 17, 1978. Redesignated at 47 FR 13805, Apr. 1, 1982]

§ 403.3 Definitions. [Rule 3]

In these rules, unless the context otherwise requires:

(a) *Application* includes complaint;

(b) *Affidavit* includes a written affirmation;

(c) *Board* means the Joint Tolls Review Board;

(d) Words in the singular include the plural and words in the plural include the singular [Rule 3].

[24 FR 9307, Nov. 18, 1959; 24 FR 10445, Dec. 23, 1959, as amended at 43 FR 30539, July 17, 1978. Redesignated at 47 FR 13805, Apr. 1, 1982]

§ 403.4 Applications. [Rule 4]

(a) Every proceeding before the Board shall be commenced by an application made to it, which shall be in writing and signed by, or on behalf of, the applicant.

(b) An applicant shall file six copies of his application setting forth a clear and complete statement of the facts the grounds for the complaint, and the relief or remedy to which the applicant claims to be entitled.

(c) Applicants resident in Canada shall file their complaints with the St. Lawrence Seaway Joint Tolls Reviews Board, Tower “A”, Place de Ville, 320 Queen Street, Ottawa, Ontario K1R 5A3. Applicants resident in the United States of America shall file their complaints with the St. Lawrence Seaway Joint Tolls Review Board, 800 Independence Ave., SW., Washington, D.C. 20591. Other applicants may file their complaints with the Board at either address.

(d) One copy of each application received shall be held and be available for public inspection at the offices of the Board in Ottawa, Ontario, and Massena, N.Y.